

APR 12 1991



COLORADO
DEPARTMENT
OF HEALTH

April 4, 1991

ROY ROMER
Governor

JOEL KOHN
Interim Executive Director

Mr. Fraser Lockhart
Department of Energy
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Dear Mr. Lockhart:

It has come to our attention that there is some confusion as to when hazardous waste permits are required for remedial activities specified in the IAG. The purpose of this letter is to clarify the issue.

Paragraph 121 of the IAG specifies that "DOE agrees to seek and implement any permit, including RCRA or CHWA permits, for any operation or process, other than permits for portions of remedial/corrective actions which are both (1) exclusively limited to DOE's obligation to perform a remedial/corrective action in accordance with paragraph 161 and (2) conducted entirely on-site." It is important to note that remedial/corrective actions performed in accordance with paragraph 161 include only those performed to implement the CAD/ROD selected for each OU. The State will modify the Rocky Flats hazardous waste permit to incorporate the CAD into the corrective action portion of the permit.

Paragraph 122 of the IAG addresses only situations where no permit is required due to the permit waiver provisions of CERCLA section 121(e)(1) and paragraph 121 of the IAG. For those situations Paragraph 122 of the IAG requires DOE to include the following information with the proposed response action:

- A. Identification of each permit which would otherwise be required.
- B. Identification of the standards, requirements, criteria, or limitations which would have had to have been met to obtain each such permit.
- C. Explanation of how the response action proposed will meet the standards, requirements, criteria, or limitations identified in subparagraph 122(B) immediately above.

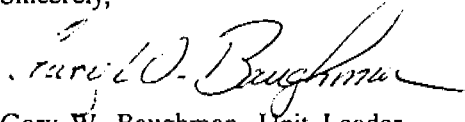
Paragraph 121 of the IAG does not address permit requirements associated with IM/IRA's. The State believes that it is appropriate to deal with permit requirements associated with an IM/IRA in the same fashion as those associated with a CAD/ROD. To accomplish this the State will modify the Rocky Flats hazardous waste permit to incorporate the IM the same way as the CAD is incorporated. Prior to the existence of a hazardous waste permit at Rocky Flats, the State will grant a change to interim status for the IM. This approach will require DOE to provide the type of information required by paragraph 122 of the IAG with proposed IM/IRA submittals.

Page Two
Department of Energy
Rocky Flats Office

All remedial activities that are not for implementation of an IM/IRA or a CAD/ROD, or are not conducted entirely on-site, are covered by paragraph 121. DOE must seek and implement permits that are required for those activities.

We hope that this information clarifies how permits are to be dealt with under the IAG. If you have any questions, or wish to discuss this issue, please call me at (303) 331-4847.

Sincerely,

A handwritten signature in cursive script, reading "Gary W. Baughman".

Gary W. Baughman, Unit Leader
Hazardous Waste Facilities
Hazardous Materials & Waste Management Division

cc: Martin Hestmark, EPA
Tom Greengard, EG&G
Dan Miller, AGO
Barbara Barry, RFPU

GWB/kjb
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